

FILE COPY

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

JOHN P. HARTWICK, M.D.,
RESPONDENT

FINAL DECISION AND ORDER
89 MED 453/93 MED 309

The parties to this action for the purposes of Wis. Stats. §227.53 are:

John P. Hartwick
2768 North County Trunk D, Suite 205
Jefferson, WI 53549

Medical Examining Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties to this matter agree to the terms and conditions of the attached Stipulation, incorporated by reference into this Order, as the final decision of this matter, subject to the approval of the Medical Examining Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board adopts the attached Stipulation and issues the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. John P. Hartwick, M.D. (D.O.B. 11/12/34) is duly licensed (but not currently registered) to practice medicine and surgery in the state of Wisconsin (license # 13638). This license was first granted on June 30, 1960.
2. Dr. Hartwick's most recent address on file with the Wisconsin Medical Examining Board is 2768 North County Trunk D, Jefferson, Wisconsin 53549.
3. Dr. Hartwick retired from the practice of medicine in 1991. For personal reasons has not renewed his current registration to practice medicine in Wisconsin. The Medical Examining Board recognizes John P. Hartwick's retirement from the practice of medicine and surgery.
4. The Department of Regulation and Licensing has opened two investigative files concerning Dr. Hartwick's practice of medicine and surgery (file #'s 89 MED 453/93 MED 309). These files were opened based upon

information received from the Wisconsin Commissioner of Insurance and the National Practitioners Data bank, based upon claimants' allegations of inadequate pre-operative work-ups for procedures occurring in 1984 and 1989.

5. On June 29, 1993, the Circuit Court for Milwaukee County [case #91-CV-16611] entered a judgement based upon a jury verdict finding Dr. Hartwick negligent in his provision of care to a patient. [Ref. #93 MED 309.]

CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction over this matter, pursuant to § 448.02(3), Wis. Stats.

2. The Wisconsin Medical Examining Board is authorized to enter into the attached stipulation, pursuant to §§ 227.44(5) and 448.02, Wis. Stats.

3. Pursuant to Wis. Stats. §448.02(3)(b) and based on the jury verdict and court finding of negligence in treating a patient, the Medical Examining Board concludes that the Respondent is guilty of negligence in case #93 MED 309.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that in the event that Dr. Hartwick applies for reinstatement of his registration, the Medical Examining Board may, in its sole discretion, require an evaluation of Dr. Hartwick's competency to practice medicine by a source acceptable to the Board as a condition precedent to issuance of re-registration. This evaluation shall be at Dr. Hartwick's expense. The Board's decision to require an evaluation under this Order shall not be considered a denial of license, under Wis. Stats. §227.01(3)(a), and Dr. Hartwick shall not be entitled to a hearing on the decision of the Board to require an evaluation.

The Medical Examining Board may in addition in its discretion impose restrictions and conditions upon Dr. Hartwick's license. Dr. Hartwick shall at his option and upon timely request be entitled to a hearing on the issue of whether the Board acted reasonably in the imposition of any restrictions or conditions under the terms of this Order.

This Order shall become effective upon the date of its signing.

MEDICAL EXAMINING BOARD

By: _____

Clark O. Olsen, M.D.
Secretary
Medical Examining Board

23 Feb 94

Date

STATE OF WISCONSIN
BEFORE THE MEDICAL EXAMINING BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST
JOHN P. HARTWICK, M.D.,
RESPONDENT

STIPULATION
89 MED 453/93 MED 309

It is hereby stipulated between John P. Hartwick, personally on his own behalf; and Steven M. Gloe and Mary K. Johnson, Attorneys for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Dr. Hartwick's licensure by the Division of Enforcement (file #'s 89 MED 453/93 MED 309). Dr. Hartwick consents to the resolution of this matter by Stipulation and without issuance of a formal complaint.

2. Dr. Hartwick understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him; at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Dr. Hartwick is aware of his right to seek legal representation and has obtained legal advice prior to signing this stipulation.

4. Dr. Hartwick agrees to the adoption of the attached Final Decision and Order by the Medical Examining Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Medical Examining Board assigned as an advisor in this investigation may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

7. The Division of Enforcement joins Dr. Hartwick in recommending the Medical Examining Board adopt this Stipulation and issue the attached Final Decision and Order.

John P. Hartwick M.D.
John P. Hartwick, M.D.

1-11-94
Date

James R. Gutglass
James R. Gutglass, Attorney for
Dr. Hartwick

1/14/94
Date

Steven M. Gloe
Steven M. Gloe
Division of Enforcement

1-20-94
Date

Mary K. Johnson
Mary K. Johnson
Division of Enforcement

Date

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN MEDICAL EXAMINING BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

FEBRUARY 28, 1994.

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)